

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULES FOR DOCKET NO. 02-0623-1301

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-101(3), 22-2403, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is the “Rules Governing Noxious Weed Free Gravel and Rock Products.” ()

02. Scope. These rules shall govern the inspection and certification of noxious weed free gravel and rock products to allow for the transportation and use of gravel and rock products in Idaho and states where regulations and restrictions are placed on such commodities. The official citation of this chapter is IDAPA 02.06.23.000 et seq. For example, the citation for this section is IDAPA 02.06.23.001. ()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. ()

003. ADMINISTRATIVE APPEALS.

There is no provision for administrative appeals before the Department of Agriculture under this chapter. ()

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Office Hours. Office hours are 8 a.m. to 5 p.m. Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. ()

02. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. ()

03. Street Address. The central office is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. ()

006. PUBLIC RECORDS.

The records associated with this chapter are subject to Title 9, Chapter 3, Idaho Code. ()

007. -- 009. (RESERVED)

010. DEFINITIONS.

The definitions found in Section 22-2402, Idaho Code, apply to this chapter. In addition, as used in this chapter: ()

01. Agent. Any instrumentality or entity authorized by the Director of the Department, and acting on behalf of the Department, to administer the provisions of this rule. Any designated agent shall act in an official capacity for the Department and under the supervision of the Director of the Department. The principal purpose of the agent is to establish, conduct, and maintain a uniform and reasonable system of inspection and certification of gravel and rock products to determine if such products are noxious weed free. ()

02. Approved Inspector. An individual who has been accredited by the Department or by the Department’s agent in the noxious weed free gravel and rock products certification program. ()

03. Certificate of Inspection. A record of inspection issued by an approved inspector that states the results of a Pit/Pile/Lot inspection. ()

04. Certification. The process whereby an approved inspector conducts pit or pile inspections to determine that the pit or pile is noxious weed free. ()

05. Department. The Idaho State Department of Agriculture. ()

06. Gravel. Unconsolidated rock fragments that have a general particle size range and include size classes from granule to boulder-sized fragments. ()

07. Pile. A stockpile of crushed or processed rock. ()

08. Pit. A natural or artificial hole or cavity in the ground. An excavation for the removal of mineral deposits. ()

09. Pit/Pile/Lot Certification Inspection. An on-site inspection of gravel or rock products in the Pits, Piles or Lots and adjacent areas for the presence of noxious weeds. ()

10. Idaho State Noxious Weed Free. Gravel and rock products inspected for weeds designated by the Director as noxious as defined in Section 22-2402(15), Idaho Code, and determined to be free of such weeds. ()

11. Lot. A pile of gravel or rock product having specific quantity and or boundaries. ()

12. North American Noxious Weed Free. Gravel and rock products inspected for and determined to be free of weeds designated as noxious by the Director as defined in Section 22-2402(15), Idaho Code, and noxious weeds listed on the North American Weed List. ()

13. North American Weed Free Gravel Certification Program. The North American Weed Management Association standard for gravel and rock products certification. ()

14. Noxious Weed Free. No noxious weeds with viable seed, injurious portions, or propagating parts were found during inspection procedures. ()

15. Rock Products. Byproducts of measured sizes of gravel crushed from blasted or dug rock, such as sand, chips, fines or other terms exclusive of topsoil or overburden. ()

16. Transit Certificate. A document completed by an approved inspector to certify products proposed for movement as certified noxious weed free into states that require noxious weed free gravel and rock products certification. The transit certificate must be in the possession of the transporter. ()

011. ABBREVIATIONS.

01. ISDA. The Idaho State Department of Agriculture. ()

02. NAWMA. North American Weed Management Association. ()

03. NWFGRP. Noxious Weed Free Gravel and Rock Products. ()

012. -- 099. (RESERVED)

100. VOLUNTARY NOXIOUS WEED FREE GRAVEL AND ROCK PRODUCTS CERTIFICATION PROGRAM.

01. Purpose. The noxious weed free gravel and rock products certification program is a voluntary program, the purpose of which is to provide a means for the inspection and certification of gravel and rock products as noxious weed free. The program will be managed by the Department and may be implemented through an agent

of the Department. The program will allow for the preparation of a transit certificate for the purpose of interstate transport or shipping of gravel and rock products into and through states which place regulations and restrictions on such products. The program is intended to reduce the exportation, importation, growth, and spread of noxious weeds. ()

02. Certifying Authority. The Department or its agent is the certifying authority. The certifying authority shall appoint, as needed, approved inspectors throughout the state, who may issue certificates of inspection. ()

03. Certification Training. The Department shall determine minimum training and accreditation standards for approved inspectors. Training will be provided annually by the Department or its agent. Attendance at annual training will certify accreditation for the inspector for that calendar year. Approved inspectors will be issued a certificate of training for the calendar year. Annual training shall include: ()

a. Pit/Pile/Lot inspection techniques and procedures; ()

b. ISDA and North American Noxious Weed List plant identification; ()

c. ISDA and North American Weed Free Gravel Certification Program; ()

d. Knowledge of weed management, including: ()

i. Burning; ()

ii. Mechanical methods or roguing; ()

iii. Herbicides. ()

e. Inspection forms. ()

04. Certification Program. ()

a. The Department or its agent shall: ()

i. Train persons who serve as approved inspectors; ()

ii. Issue Certificates of Inspection and/or Transit Certificates to qualifying participants; ()

iii. Maintain a record of inspections performed and certificates issued. ()

b. Under the direction of the Department or its agent an approved inspector may perform inspections and issue Certificates of Inspection and/or Transit Certificates within the state. ()

05. Application for Certification. ()

a. Application for certification shall be made on forms available from the Department or its agent and submitted to the Department or its agent. ()

b. An applicant's signature on the application for certification is verification of the accuracy of the information submitted, and signifies the applicant's intent to comply with the post-certification and distribution requirements. ()

06. Pit/Pile/Lot Inspection Procedures. ()

a. Gravel or rock products shall be inspected no more than ten (10) days prior to shipping or loading in the Pit/Pile/Lot of origin for each Pit/Pile/Lot to be certified. ()

b. Each Pit/Pile/Lot inspected shall be identified by the name of the owner and a Pit/Pile/Lot name or number. The certification inspection may be performed on an entire Pit/Pile/Lot or a portion of a Pit/Pile/Lot, if the portion is plainly marked and identified prior to inspection. ()

c. Pit/Pile/Lot inspections must take place prior to any operation that will limit the approved inspector's ability to properly inspect and certify the Pit/Pile/Lot. A Pit/Pile/Lot that has been moved or loaded prior to inspection is ineligible for certification. ()

d. The entire Pit/Pile/Lot and border shall be physically inspected. ()

e. The Pit/Pile/Lot inspection will include all ditches, fence rows, roads, easements, rights-of-way, or buffer zones surrounding the Pit/Pile/Lot. ()

f. Gravel or rock products which contain any noxious weeds, as identified in Section 22-2402(15) or noxious weeds listed on the North American Noxious Weed List, may be certified if the following requirements are met: ()

i. Pit/Pile/Lot in which the gravel or rock products were produced was treated to prevent seed formation or seed ripening to the degree that there is no danger of dissemination of the seed, or any injurious portion thereof from such noxious weeds, or undesirable plant species, or the propagating parts of the plant are not capable of producing a new plant; ()

ii. Noxious weed(s) were treated not later than rosette to bud stage, or boot stage for grass species classified as noxious weeds; and ()

iii. Treatment methods can include, but are not limited to burning, roguing, mechanical methods, or chemicals. ()

g. An inspection certificate shall document that the above requirements have been met. ()

h. Interstate shipment of gravel and rock products shall be accompanied by an original transit certificate issued by the approved inspector in the county of origin. The storage area shall also be inspected and shall be free of noxious weeds. ()

i. An approved inspector may not inspect any Pit/Pile/Lot of which said inspector has ownership or financial interest. ()

07. Certification Standards. After completing an inspection the approved inspector shall complete a Certificate of Inspection. ()

a. If the Pit/Pile/Lot is certified as North American Noxious Weed Free, the approved inspector shall issue a Certificate of Inspection for that Pit/Pile/Lot. If the Pit/Pile/Lot contains North American Noxious Weeds, but does not contain Idaho State noxious weeds, it may be certified as Idaho State Noxious Weed Free, and such certification shall be noted on the Certificate of Inspection. ()

b. If the Pit/Pile/Lot is certified as North American Noxious Weed Free, as defined in these rules, the approved inspector may also issue, upon request, a Transit Certificate. ()

c. Certificates of Inspection and Transit Certificates shall be on forms prescribed by the Department or its agent. ()

d. Certificates of Inspection are valid for a maximum of thirty (30) days. ()

08. Copy of Inspections and a List of Approved Inspectors. Upon request, the agent shall provide the Department with a copy of Certificates of Inspections issued and a current list of approved inspectors. ()

09. Reciprocity. Gravel or rock products certified under a reciprocal agreement between the Department and another state, and certified as North American Noxious Weed Free according to the other state's approved certification standards, may be shipped into the state of Idaho and shall be considered to meet the requirements of the Idaho program. ()

10. Exports. Certification under these rules does not qualify a product for export from the United States. Applications for certification for export may be made directly to the Division of Plant Industries within the Department. ()

11. Voluntary Posting. After certification, signs or other forms of notification may be posted on the certified product indicating that the product is certified as noxious weed free. ()

12. Post-Certification and Distribution Requirements. After a gravel or rock product has been inspected and certified: ()

- a. Reasonable and prudent steps must be taken to protect the certified product from contamination; ()
- b. The certified product must be separated from all uncertified product; ()
- c. Each shipper, trucker, or transporter must have the appropriate Transit Certificates. ()

13. Cancellation for Failure to Comply. Any person who provides false information on an application for inspection or who fails to comply with the post-certification and distribution requirements may, upon order of the Director, be suspended for a period of up to two (2) years from participating in the gravel and rock products program. ()

14. Enforcement and Cancellation. Gravel or rock products from certified Pits/Piles/Lots may be checked at any time by an approved inspector. Manufactured gravel or rock products may be checked at any time by an approved inspector. Gravel or rock products from a certified Pit/Pile/Lot which has not been protected from contamination shall be cause for cancellation of certification. ()

15. Misuse of Transit Certificate and Certification Markings. Using a Transit Certificate or certification marking for gravel or rock products from a Pit/Pile/Lot that has not been certified shall constitute a violation of these rules. ()

101. -- 149. (RESERVED)

150. NORTH AMERICAN NOXIOUS WEED LIST.

Common Name	Scientific Name
Absinth wormwood	<i>Artemisia absinthium</i>
Bermudagrass	<i>Cynodon dactylon</i>
Buffalobur	<i>Solanum rostratum</i>
Canada thistle	<i>Cirsium arvense</i>
Common burdock	<i>Arctium minus</i>

Common crupina	<i>Crupina vulgaris</i>
Common tansy	<i>Tanacetum vulgare</i>
Dalmatian toadflax	<i>Linaria dalmatica</i>
Diffuse knapweed	<i>Centaurea diffusa</i>
Dyers woad	<i>Isatis tinctoria</i>
Field bindweed	<i>Convolvulus arvensis</i>
Hemp (marijuana)	<i>Cannabis sativa</i>
Henbane, Black	<i>Hyoscyamus niger</i>
Hoary cress	<i>Cardaria spp.</i>
Horsenettle	<i>Solanum carolinense</i>
Houndstongue	<i>Cynoglossum officinale</i>
Johnsongrass	<i>Sorghum halepense</i>
Jointed goatgrass	<i>Aegilops cylindrica</i>
Leafy spurge	<i>Euphorbia esula</i>
Matgrass	<i>Nardus stricta</i>
Meadow knapweed	<i>Centaurea pratensis</i>
Medusahead	<i>Taeniatherum caput-medusae</i>
Milium	<i>Milium vernale</i>
Musk thistle	<i>Carduus nutans</i>
Orange hawkweed	<i>Hieracium aurantiacum</i>
Oxeye daisy	<i>Chrysanthemum leucanthemum</i>
Perennial pepperweed	<i>Lepidium latifolium</i>
Perennial sorghum	<i>Sorghum almum</i>
Perennial sowthistle	<i>Sonchus arvensis</i>
Plumeless thistle	<i>Carduus acanthoides</i>
Poison hemlock	<i>Conium maculatum</i>
Puncturevine	<i>Tribulus terrestris</i>
Purple loosestrife	<i>Lythrum salicaria</i>

Quackgrass	<i>Agropyron repens</i>
Rush skeletonweed	<i>Chondrilla juncea</i>
Russian knapweed	<i>Centaurea repens</i>
Scentless chamomile	<i>Matricaria perforata</i> or <i>M. milaceum</i>
Scotch broom	<i>Cytisus scoparius</i>
Scotch thistle	<i>Onopordum acanthium</i>
Sericea Lespedeza	<i>Lespedeza cuneata</i>
Silverleaf nightshade	<i>Solanum elaeagnifolium</i>
Skeletonleaf bursage	<i>Ambrosia tomentosa</i>
Spotted knapweed	<i>Centaurea maculosa</i>
Squarrose knapweed	<i>Centaurea virgata</i>
St. Johnswort	<i>Hypericum perforatum</i>
Sulfur cinquefoil	<i>Potentilla recta</i>
Syrian beancaper	<i>Zygophyllum fabago</i>
Tansy ragwort	<i>Senecio jacobaea</i>
Toothed spurge	<i>Euphorbia dentata</i>
Wild oats	<i>Avena fatua</i>
Wild proso millet	<i>Panicum miliaceum</i>
Yellow hawkweed	<i>Hieracium pratense</i>
Yellow starthistle	<i>Centaurea solstitialis</i>
Yellow toadflax	<i>Linaria vulgaris</i>

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151. -- 999. (RESERVED)